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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,507	10/27/2003	David E. Heitzmann	3203	2669

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EXAMINER

LUM VANNUCCI, LEE SIN YEE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

10/694,507

Applicant(s)

HEITZMANN, DAVID E.

Examiner

Lee Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, the language "comprising... a rubber shear spring, a first plate on said rubber shear spring ..., a second plate on said rubber shear spring" is unclear because it indicates that the "shear spring" is a *separate element from* the "first plate", "second plate", etc. However, this is not evident in the drawings, nor Spec (pp 5+), both of which clearly provide that, in fact, the "shear spring" is *comprised of* the "first plate", "second plate", and "rubber member". Amendment is required to clarify this issue so the invention is comprehensible.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, **Claims 1 and 8** are rejected under 35 U.S.C. 102(b) as being anticipated by Holland 3774942.

Holland discloses a fifth-wheel pinbox assembly, depicted in fig 4, comprising

Top member (chassis 18),

As best understood, rubber shear spring including first 30, and second 40, plates, and rubber member 56,

First plate 30 on the shear spring attached relative to the top member,

Skid pad 38,

Second plate 40 on the shear spring attached relative to the skid pad,

Rubber member 56 bonded between the plates,
Pin 54 extending from the skid pad, and,
At least one confined space (within element 42) located relative to the top member,
Including restraining shaft 36 located within the space, the shaft being connected
to the skid pad.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holland in view of Sallier 3892712.

Re Claims 2 and 8, Holland does not disclose a column secured to the top member, while Sallier shows this element 22 connected with top member 38. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature, as shown in Sallier, to permit the assembly to be connected with a fifth-wheel hitch positioned within a portion, such as the rear bed, of the towing vehicle, thus increasing applicability to different towing vehicles.

Re Claim 6, Holland discloses
the top member including downwardly-depending first edge portions (unidentified portions on plate member 30),
the skid pad including second edge portions (vertical sides of skid pad 38, forming boxes with elements 40) that are spaced from the first edge portions.

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4. ~~Claims 3-5, 7, 9 and 11-23 are objected to as being dependent upon a rejected base~~ claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art does not disclose the assembly as described above, further comprising, *inter alia*, spaced blocks positioned between the top member and skid pad, and on opposite sides of the shear spring, the blocks secured to channels which are secured to the top member.

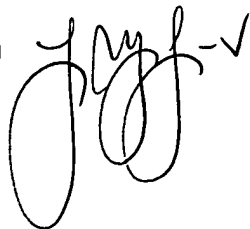
5. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Meyer 4955631, Schult et al 4861060, Breford 3897086, Pleier 3633941.

6. Communication with USPTO/Examiner

Any inquiry concerning this communication, or others, should be directed to Ms. Lum at 703 305-0232, M-F, 9-6. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum
Examiner
10/14/04



LESLEY D. MORRIS
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TECHNOLOGY CENTER 3600